

Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ 08625

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Caleb L. McGillvary	)	CIVIL ACTION NO.
PLAINTIFF	)	1:23-cv-26605-JMY
V.	)	Hon. John Milton Younge, USDJ
)	
Nicholas Scutari et al)	
DEFENDANT)	

NOTICE OF APPEAL

TO: CLERK, ALL CAPTIONED PARTIES

Please take notice that Plaintiff Caleb L. McGillvary hereby appeals to the United States Court of Appeals for the Third Circuit from the United States District Court for the District of New Jersey's Final Order of Dismissal in the above-captioned matter; ECF 360; and all orders and opinions subsumed therein.

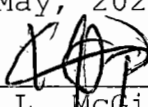
Plaintiff was granted leave to proceed in forma pauperis in the district court.

Respectfully submitted on this 19th Day of May, 2024

RECEIVED

MAY 22 2025

AT 8:30 _____ M
CLERK, U.S. DISTRICT COURT - DNJ


Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ
08625-0861

C.A. No. _____

AUTHORIZATION FOR WITHDRAWAL OF FUNDS


NOTICE TO PRISONER: You are directed to complete the following form. Part A of the form must be returned to the Clerk. Part B of the completed form shall be returned to the prison official in charge of the prisoner account.

PART A

I, CALEB L. MCGILLVARY (Name of Prisoner and Registered
Number if applicable)

authorize the Clerk of the Court to obtain, from the agency having custody over me, information about my institutional account, including balances, deposits, and withdrawals. The Clerk may obtain such information until the fee and any other payments owed the Court are paid. I also authorize the agency having custody over me to withdraw funds from my account and forward payments to the appropriate Clerk of Court in accordance with 28 U.S.C. §1915.

5/19/25
Date

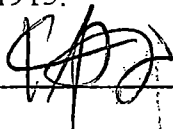
 Signature of Prisoner

PART B

I, CALEB L. MCGILLVARY (Name of Prisoner and Registered
Number if applicable)

authorize the Clerk of the Court to obtain, from the agency having custody over me, information about my institutional account, including balances, deposits, and withdrawals. The Clerk may obtain such information until the fee and any other payments owed the Court are paid. I also authorize the agency having custody over me to withdraw funds from my account and forward payments to the appropriate Clerk of Court in accordance with 28 U.S.C. §1915.

5/19/25
Date

 Signature of Prisoner

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. _____

**ADDENDUM TO AFFIDAVIT IN SUPPORT OF MOTION
TO PROCEED IN FORMA PAUPERIS**

Notice to Litigant: The Prison Litigation Reform Act of 1995, effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing or docketing fees for prisoners who are granted leave to proceed in forma pauperis. This applies to original proceedings and appeals from decisions in civil actions or proceedings. Once a prisoner has been granted leave to proceed in forma pauperis, the prisoner is obligated to pay the entire filing and/or docketing fee in the manner prescribed by statute, regardless of the outcome of the proceeding or appeal.

Prisoners proceeding in forma pauperis are now required to pay an initial partial filing fee, and thereafter periodic payments will be made from the prisoner's institutional account until the entire fee has been paid. 28 U.S.C. § 1915 (b) (1). If a prisoner does not have sufficient funds to pay the initial partial fee, the prisoner will not be prohibited from proceeding. Once there are sufficient funds in the prisoner's account, however, funds will be collected in the manner prescribed by the statute until the entire fee has been paid. 28 U.S.C. § 1915 (b) (4). The obligation to pay the fees and any subsequent costs continues even if the prisoner is transferred or released from custody.

Therefore, you should consider carefully whether you wish to go forward with an appeal or proceeding before you submit an affidavit in support of motion to proceed in forma pauperis to this Court.

The Act has amended § 1915 to require that you submit an affidavit in support of motion to proceed in forma pauperis that includes a statement listing all of your assets. 28 U.S.C. § 1915(a)(1). Therefore, when completing the attached affidavit, you must include a complete listing of your assets. You also must complete the following certification:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that I have the sum of \$43.33 in my prison account at (name of institution in which you are confined) NJ STATE PRISON, 3RD & FEDERAL STS. TRENTON, NJ.

5/19/25



Applicant's Signature

Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ 08625

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Caleb L. McGillvary)	
PLAINTIFF	)	CIVIL ACTION NO.
	)	1:23-cv-26605-JMY
V.	)	Hon. John Milton Younge, USDJ
)	
Nicholas Scutari et al)	
DEFENDANT)	
)	

CERTIFICATE PURSUANT TO F.R.A.P. 10(b)(1)(B)

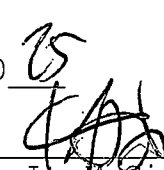
I, Caleb L. McGillvary ("Plaintiff"), hereby declare pursuant to 28 U.S.C. 1746 the following:

1.) I am the pro se plaintiff/appellant in the above-captioned matter.

2.) I certify pursuant to F.R.A.P. 10(b)(1)(B) that I will not be ordering a transcript; because I have been granted leave to proceed in forma pauperis and am requesting pursuant to F.R.A.P. 24(c) that this appeal to be heard on the original record.

I declare under penalty of perjury that the foregoing statements are true and accurate.

Executed this 19TH day of MAY, 2025



Caleb L. McGillvary, ProSe
#1222665/SBI#102317G NJSP
PO Box 861, Trenton, NJ 08625

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Caleb L. McGillvary)	
PLAINTIFF	)	CIVIL ACTION NO.
	)	1:23-cv-26605-JMY
V.	)	Hon. John Milton Younge, USDJ
)	
Nicholas Scutari et al)	
DEFENDANT)	
)	

CERTIFICATE PURSUANT TO F.R.A.P. 10(b)(1)(B)

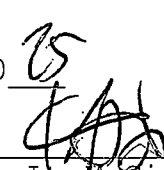
I, Caleb L. McGillvary ("Plaintiff"), hereby declare pursuant to 28 U.S.C. 1746 the following:

1.) I am the pro se plaintiff/appellant in the above-captioned matter.

2.) I certify pursuant to F.R.A.P. 10(b)(1)(B) that I will not be ordering a transcript; because I have been granted leave to proceed in forma pauperis and am requesting pursuant to F.R.A.P. 24(c) that this appeal to be heard on the original record.

I declare under penalty of perjury that the foregoing statements are true and accurate.

Executed this 19TH day of MAY, 2025



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PO Box 861 Trenton, NJ 08625

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

RECEIVED
MAY 22 2025
AT 8:30
CLERK, U.S. DISTRICT COURT-DNJ

Caleb L. McGillvary)	
Plaintiff	)	APPEAL NO.
)	
V.	)	On Appeal from the
	)	U.S.D.C.-D.N.J. at
	)	CIVIL ACTION NO.
Nicholas Scutari et al.	)	1:23-cv-22605-JMY
Defendants	)	Sat Below:
	)	Hon. John Milton Younge, USDJ

MOTION UNDER F.R.A.P. 24(c) TO PROCEED ON ORIGINAL RECORD

Plaintiff Caleb L. McGillvary ("Plaintiff"), hereby moves the Honorable Judges of the U.S. Court of Appeals for the 3rd Circuit for an order granting him leave to proceed on the original record on appeal.

As grounds for this request, Petitioner relies upon the following grounds in support of this motion:

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On November 20, 2023, Plaintiff filed the instant action. ECF 1. On February 22, 2024, the Court below granted Plaintiff leave to proceed in forma pauperis. ECF 9.

On May 13, 2025, the Court below entered a final order dismissing all claims as to all parties with prejudice and denying leave to amend. See ECF 360.

On today's date, Plaintiff filed herewith a notice of appeal of the Court Below's May 13, 2025 Order.

This motion is now before the Court.

LEGAL ARGUMENT

POINT I: PLAINTIFF HAS BEEN GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS, AND IT IS IN THE INTERESTS OF JUSTICE TO ALLOW THIS APPEAL ON THE ORIGINAL RECORD

Plaintiff was granted leave to proceed in forma pauperis below, and so his appeal to this Court is also taken in forma pauperis pursuant to F.R.A.P. 24(a)(3). Plaintiff may request that the appeal be heard on the original record. F.R.A.P. 24(c). Because there was no hearing, and the decision below rests solely on the papers filed by parties, Plaintiff respectfully requests the Court to allow him leave to proceed on the original record.

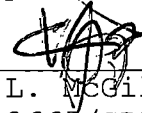
CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests the U.S. Court of Appeals for the 3rd Circuit to allow him leave to proceed on the original record.

Date:

5/19/25

Respectfully Submitted,



Caleb L. McGillvary, ProSe
#1222665/SBI#102317GNJSP
PO Box 861, Trenton, NJ08625

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#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ 08625

May 19, 2025

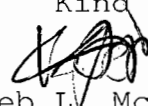
Clerk, US Dist. Ct. - DNJ
US Courthouse
4th and Cooper Streets
Camden, NJ 08101-2797

RE: Caleb L. McGillvary v. Nicholas Scutari et al
Civil Action No. 1:23-cv-22605-JMY
Hon. John Milton Younge, U.S.D.J.

Dear Clerk;

Please find enclosed and file onto the docket the original and required copies of my notice of appeal of the Court's May 13, 2025 order dismissing all claims as to all parties with prejudice and denying leave to amend in the above-captioned matter; ECF 360; as well as my motion for leave to proceed on original record, motion for leave to proceed in forma pauperis, certification of 6 month inmate account statement, prisoner authorization, and certification pursuant to F.R.A.P. 10(b)(1)(B); and proof of service thereof; in the above-captioned matter. Thank you.

Kind Regards,


Caleb L. McGillvary
In Propria Persona

ENCL:
CC: FILE

RECEIVED
MAY 22 2025
AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

PROOF OF SERVICE

I, Caleb L. McGillvary, declare pursuant to 28 U.S.C. 1746 that on today's date, I placed in the institutional mailing system here where I'm incarcerated at NJ State Prison 3rd & Federal Streets Trenton, NJ 08625; with First Class Postage prepaid to be sent via USPS Mail; the original and required copies of my notice of appeal of the Court Below's May 13, 2025 order dismissing all claims as to all parties with prejudice and denying leave to amend in the above-captioned matter; ECF 360; as well as my motion for leave to proceed on original record, motion for leave to proceed in forma pauperis, certification of 6 month inmate account statement, prisoner authorization, and certification pursuant to F.R.A.P. 10(b)(1)(B); in the above-captioned matter. to the Clerk of the District Court at USDC-DNJ US Courthouse 4th & Cooper Sts. Camden, NJ 08101-2797. Pursuant to the prison mailbox rule, these documents are constructively filed as of the date of mailing. Pursuant to DNJ Local Civil Rules, upon said filing the Clerk files Plaintiff's document into the CM/ECF system. See DNJ L.Civ.R. 5.2.2 ("All civil ... cases and documents filed in this Court, will be entered into the Court's ECF System in accordance with these Procedures."). Upon entry of a document in CM/ECF, notice of electronic filing thereof ("NEF"); is automatically thereby sent to all CM/ECF-participating parties. See DNJ L.Civ.R. 5.2.1(d) ("NEF is a notice automatically generated by the Electronic Filing System at the time a document is filed with the system..."). This NEF constitutes service upon all such parties. See DNJ L.Civ.R. 5.2.14(b)(1) ("Transmission of the NEF constitutes service of the filed document on Filing Users"). Therefore, pursuant to this Court's Local Civil Rules, on today's date I have also served a copy of each said document on all appearing captioned Defendants, who are represented by CM/ECF-user Counsel.

I hereby invoke the prison mailbox rule.

I declare under penalty of perjury that the foregoing statements made by me are true and accurate.

Executed this 19th Day of MAY, 2025

Caleb L. McGillvary, Pro Se
#1222665/SBI#102317G NJSP
PO Box 861 Trenton, NJ
08625-0861

RECEIVED

MAY 22 2025

AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

C MCGILL VARY
#1222665/SB1#1023174
N5SP PO Box 861
TRENTON, NJ
08625



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MAY 22 2025

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CLERK
US DIST. CT. - DNJ
4TH & COOPER STS.
CAMDEN, NJ
08101-2797

EXP. 11/1/25

